

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2009CA1020
)	EEOC NO.: 21BA90073
PENNEY WASHINGTON)	ALS NO.: 10-0027
)	
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Sakhawat Hussain, M.D., Spencer Leak, Sr., and Rozanne Ronen presiding, upon Penney Washington's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")^[1] of Charge No. 2009CA1020; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

**EXPIRATION OF INVESTIGATORY PERIOD &
FILING OF COMPLAINT WITH THE ILLINOIS HUMAN RIGHTS COMMISSION**

In support of which determination the Commission states the following findings of fact and reasons:

1. The Petitioner filed a charge of discrimination with the Respondent on September 23, 2008. The Petitioner alleged that Subway Restaurant ("Employer") discharged her because of her age, 55, and her race, Black, in violation of Section 2-102(A) of the Illinois Human Rights Act ("Act").
2. The Respondent had 365 days, or until September 24, 2009, to complete its investigation of the Petitioner's charge. If the Respondent failed to complete its investigation by September 24, 2009, the Petitioner would have 90 days thereafter to file a Complaint of Civil Rights Violation ("Complaint") with the Commission.

^[1] In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge who is requesting review of the Department's action shall be referred to as the "Petitioner."

3. The Respondent failed to complete its investigation within 365 days.
4. On September 24, 2009, the Petitioner filed a Complaint with the Commission.
5. On December 8, 2009, the Respondent sent the Petitioner notice that it had dismissed the Petitioner's charge because she had filed a Complaint with the Commission and because the Respondent's 365-day time limit to investigate the Petitioner's charge had expired. The notice stated the Petitioner's deadline to file a request for review of the dismissal was January 11, 2010.
6. On January 11, 2010, the Petitioner filed this timely Request.
7. In her Request, the Petitioner briefly describes the facts of her case. However, the Petitioner does not address the Respondent's stated reason for dismissing her charge.
8. In its response, the Respondent asks the Commission to sustain its dismissal of the Petitioner's charge because the Respondent is mandated to dismiss the Petitioner's charge pursuant to Section 7A-102(G)(3) of the Act.

Conclusion

The Commission concludes that the Respondent properly dismissed the Petitioner's charge. Pursuant to Section 7A-102(G)(3), once the Respondent's time period to complete its investigation of the Petitioner's charge expired, the Respondent was required to immediately cease its investigation of the Petitioner's charge. See 775 ILCS 5/7A-102(G)(3) (West 2010). Therefore, the Respondent followed the mandate of the Act when it dismissed the Petitioner's charge on September 24, 2009.

In this case, the Respondent's dismissal of the Petitioner's charge does not affect the Petitioner's Complaint that is currently pending before the Commission. The Respondent's dismissal only terminates the Respondent's investigation of the Petitioner's charge. The Respondent's dismissal has not terminated the Commission proceedings relative to the Petitioner's Complaint.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of the Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Subway Restaurant, as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS

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HUMAN RIGHTS COMMISSION

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Entered this 28th day of July 2010

Commissioner Sakhawat Hussain, M.D.

Commissioner Spencer Leak, Sr.

Commissioner Rozanne Ronen